IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Appellants: | Brian J. CORRELL et al. | § | Confirmation No.: | | 4984 |
| | | § | | | |
| Serial No.: | 10/715,250 | § | Group Art Unit: | | 2194 |
| | | § | | | |
| Filed: | 11/17/2003 | § | Examiner: | R. Pantoliano Jr. | |
| | | § | | | |
| For: | Method and System for | § | Docket No.: | | 200310748-1 |
| | Hosting an Application | § | | | |
| | With a Façade Server | § | | | |

## APPEAL BRIEF

**Mail Stop Appeal Brief – Patents**                                     Date: January 7, 2008
Commissioner for Patents
PO Box 1450
Alexandria, VA  22313-1450

Sir:

 Appellants hereby submit this Appeal Brief in connection with the above-identified application.  A Notice of Appeal was electronically filed on January 3, 2008.

## <u>TABLE OF CONTENTS</u>

I.     REAL PARTY IN INTEREST

The real party in interest is the Hewlett-Packard Development Company (HPDC), a Texas Limited Partnership, having its principal place of business in Houston, Texas.  HPDC is a wholly owned affiliate of Hewlett-Packard Company (HPC).  The Assignment from the inventors to HPDC was recorded on November 17, 2003 at Reel/Frame 014716/0620.

II.     RELATED APPEALS AND INTERFERENCES

Appellants are unaware of any related appeals or interferences.

III.   **STATUS OF THE CLAIMS**

Originally filed claims:      1-21.

Claim cancellations:      8, 11, 13, 16.

Added claims:      22-24.

Presently pending claims:   1-7, 9-10, 12, 14-15, 17-24.

Presently appealed claims: 1-7, 9-10, 12, 14-15, 17-24.

## IV.    STATUS OF AMENDMENT

No amendments have been filed after issuance of the Final Office Action dated November 1, 2007.

## V.     SUMMARY OF THE CLAIMED SUBJECT MATTER

Various embodiments of the invention are described below. The scope of disclosure is not limited by the descriptions of the embodiments that follow. Citations to the specification have been provided to demonstrate where support may be found in the specification for various parts of the invention. Additional support may be found elsewhere in the application.

Appellants' invention is directed to a "façade server." In at least some embodiments, a façade server 110 (Figs. 1-3) is described as a **software program** that is stored in memory 104 and that can be **executed by a processor 102**. P. 3, l. 5. The façade server 110 is the software program itself; the façade server is **not** merely an application that controls the functions of a hardware server. P. 3, l. 5 and Figs. 1-3. The façade server 110 derives its name from the fact that, despite being in software form, it is able to perform at least some of the functions of a conventional, hardware server. P. 3, ll. 19-24. For example, the façade server 110 is able to host an application 112. P. 3, ll. 19-24. The disadvantages of hardware servers (*e.g.*, security/vulnerability issues stemming from the use of network protocols) are mitigated by the façade server, because the façade server is a software program and, as such, does not use any network protocols. P. 4, l. 22.

Claim 1 is directed to a computer system 100 that comprises a central processing unit (CPU) 102, a memory unit 104 and an application 112 stored on the memory unit 104. P. 3, ll. 1-7 and Figs. 1 and 3. The application 112 is executable by the CPU 102. Figs. 1-3. The memory unit 104 also comprises a façade server 110 that is executable by the CPU 102. P. 4, ll. 12-13 and Figs. 1 and 3. The façade server 110 is able to host the application 112 without utilizing network protocols. P. 4, l. 22.

Claim 7 is directed to a method that comprises generating application data from a web-based application 112 hosted on an executable façade server 110 via a web-server interface 206. P. 4, ll. 18-19 and Fig. 2. The method also comprises providing the application data from the executable façade server 110 to a web-browser 106 using a local protocol 210. P. 5, ll. 11-18 and Fig. 2. The method

further comprises using the web-browser 106 to display the application data on a display 314. P. 6, II. 20-22 and Figs. 1-3.

Claim 12 is directed to a computer-readable medium 104 that stores instructions executable by a computer system 100. P. 3, II. 1-7 and Figs. 1 and 3. When executed, the instructions implement a method that comprises generating application data from a web-based application 112 hosted on an executable façade server 110 via a web-server interface 206. P. 4, II. 18-19 and Fig. 2. The method also comprises providing the application data from the executable façade server 110 to a web-browser 106 using a local protocol 210. P. 5, II. 11-18 and Fig. 2.

Claim 17 is directed to a computer system 100 that comprises means for executing programs (processor 102, Figs. 1 and 3; p. 3, II. 1-7) and means for storing data (memory 104, Figs. 1 and 3; p. 3, II. 1-7) coupled to the means for executing programs. The system also comprises means for generating application data (application 112, Figs. 1 and 3; p. 3, II. 1-7) from a web-based application, where the web-based application is stored in the means for storing data and is executable by the means for executing programs. The system further comprises means for hosting the web-based application (façade server 110, Figs. 1-3; p. 4, II. 18-19) that is stored in the means for storing data and is executable by the means for executing programs. The means for hosting the web-based application does not utilize network protocols. P. 4, I. 22.

## VI.    GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether under 35 U.S.C. § 102(b) claims 1-7, 12 and 17-24 are anticipated by Jennings (U.S. Pat. No. 6,717,593).

Whether under 35 U.S.C. § 103(a) claims 9 and 14 are obvious in view of Jennings and Lerner (U.S. Pat. No. 6,192,395).

Whether under 35 U.S.C. § 103(a) claims 10 and 15 are obvious in view of Jennings and Elkan (U.S. Pub. No. 2002/0055940).

VII.   ARGUMENT

A.   Summary of Jennings

The relevant portion of Jennings cited by the Examiner includes Fig. 3, col. 8, ll. 27-65, and col. 4, ll. 47-52. Office Action, pp. 2 and 10. Appellants now describe each of these portions of Jennings in turn.

Fig. 3 and col. 8, ll. 27-65 of Jennings disclose an interactor 130. The interactor 130 is a software program. Referring to Figures 1 and 3 of Jennings, the "purpose [of the interactor 130] is to **merely implement [a] user interface [132]**" (emphasis added). Jennings, col. 8, ll. 25-26. As shown in Figure 3, the interactor 130 implements a user interface 132 by using information from documents 122, 124 and plug-ins 126, 128 to produce the interface 132. In turn, the interface 132 is used by a user to interact with application 120, which runs on a hardware server 110. However, the interactor 130 **itself** does not act as a server, at least because at no point does the interactor 130 host an application.

Column 4, ll. 47-52 of Jennings discloses that each server 210 is controlled by a software program. Specifically, each server 210 is a stored-program-controlled machine, such as a computer, messaging system, *etc.*, or a Web server. Each of the servers 210 comprises a processor 214 and a memory 212 storing data for use and programs for execution by processor 214.

B.   Rejection Under 35 U.S.C. § 102(b)

Claims 1-7, 12 and 17-24 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Jennings. Claim 1 requires "a façade server stored in the memory unit and executable by the CPU, wherein the façade server hosts the application without utilizing network protocols." Jennings fails to anticipate claim 1 at least because Jennings does not teach or suggest 1) an **executable** (*i.e.*, software) server that is 2) able to **host an application** 3) **without using network protocols**.

In the Final Office Action, pp. 2-3, the Examiner suggests that the interactor 130 of Jennings is analogous to the façade server of claim 1. This analogy is erroneous because Jennings' interactor 130 is not described as being

able to **host an application**. Instead, as explained above, the interactor 130 merely implements the user interface 132. Further, because the interactor 130 does not host an application, the interactor 130 most certainly does not host an application "without using network protocols," as required by claim 1. Therefore, the Examiner's analogy is moot.

> In the Final Office Action, p. 10 (numeral 35), the Examiner argues that:

> Jennings clearly discloses that the server examiner has cited in the above rejection is a "stored-program-controlled" server, which is an unambiguous statement that the cited server contains a stored software component that controls its operation (col. 4, lines 47-52).

If the Examiner is arguing that the hardware server is analogous to Appellants' façade server, the Examiner's argument is erroneous. The façade server of claim 1 is an executable software program that acts as a server. The façade server is not merely an application that happens to reside on or control the activities of a hardware server; the façade server **itself** is the server. This distinction is significant because of the security benefits conveyed by a software server (*i.e.*, the façade server) relative to a traditional hardware server as that disclosed in Jennings.

If, on the other hand, the Examiner is arguing that the "stored program" resident on the hardware server that controls the hardware server's activities is analogous to Appellants' façade server, the Examiner is again mistaken. Jennings' "stored program" is merely able to control the activities of the hardware server on which it resides. Jennings does not teach or even suggest that the "stored program" is able to act as a server independently of its hardware server. The "stored program" may enable the hardware server to host applications (Appellants do not admit or deny this possibility), but the stored program itself is not described as being able to host applications, and the stored program most certainly does not appear to host applications "without using network protocols," as required by claim 1.

In the Final Office Action, p. 10 (numeral 35), the Examiner further argues that:

> ...the server is disclosed by Jennings to allow for communication with the interposer of the client to communicate with the server using local inter-process communication arrangements when the documents for the application being served to the interposer are co-located on the same computer...

The Examiner is again mistaken for the simple reason that the hardware server to which the Examiner refers is **not executable**. In contrast, the façade server of claim 1 is an **executable software program**.[1]

Having refuted each of the Examiner's specific citations to Jennings, Appellants turn to p. 11 of the Final Office Action, in which the Examiner requests that the Appellants consider not just the Examiner's specific citations, but each of the cited references as a whole. Appellants still maintain that the Examiner erred in rejecting claim 1 using Jennings, because the Examiner has not pointed out – and Appellants are unable to find – any teaching of 1) an **executable** server that is 2) able to **host an application** 3) **without using network protocols**. Based on the foregoing, the Examiner's rejection of claim 1 and dependent claims 2-6 should be reversed.

Claim 7 requires "generating application data from a web-based application hosted on an executable façade server via a web-server interface" and "providing said application data from the executable façade server to a web-browser using a local protocol." As explained above, Jennings fails to teach such limitations. The Examiner then argues on p. 10 (numeral 36) that "Jennings makes use of a Web server to deliver the documents that allow access to the underlying web-based application." Appellants again submit that the Examiner is mistaken, because Jennings' Web server is **not executable**. In contrast, the façade server of claim 1 is an executable software program. As explained above, this distinction is of significance because a purely software-based server conveys many security

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[1] Although the term "executable software program" is not explicitly claimed, the claims limit the façade server to a server that is executable by a processor. One of ordinary skill would readily understand that that which is executable by a processor constitutes a software program.

advantages not realized by a traditional Web server (*e.g.*, Jennings' Web server). Based on the foregoing, the Examiner's rejection of claims 7 and dependent claims 9-10 and 22-23 also should be reversed.

Claim 12 requires "generating application data from a web-based application hosted on an executable façade server via a web-server interface" and "providing said application data from the executable façade server to a web-browser using a local protocol." As explained above, Jennings fails to teach such limitations. Thus, the Examiner's rejections of claim 12 and dependent claims 14-15 and 24 also should be reversed.

Claim 17 requires "means for hosting the web-based application [that is] executable by the means for executing programs" and "wherein the means for hosting the web-based application does not utilize network protocols." As explained above, Jennings fails to teach such limitations. Thus, the Examiner's rejection of claim 17 and dependent claims 18-21 should be reversed.

### C. Rejections Under 35 U.S.C. § 103(a)

#### 1. Rejection in View of Jennings and Lerner

Claims 9 and 14 stand rejected under 35 U.S.C. § 103(a) as allegedly obvious in view of Jennings and Lerner. As explained above, claims 9 and 14 are patentable over Jennings. Lerner fails to satisfy the deficiencies of Jennings. Thus, the Examiner erred in rejecting claims 9 and 14 in view of Jennings and Lerner.

#### 2. Rejection in View of Jennings and Elkan

Claims 10 and 15 stand rejected under 35 U.S.C. § 103(a) as allegedly obvious in view of Jennings and Elkan. As explained above, claims 10 and 15 are patentable over Jennings. Elkan fails to satisfy the deficiencies of Jennings. Thus, the Examiner erred in rejecting claims 10 and 15 in view of Jennings and Lerner.

### D. Conclusion

For the reasons stated above, Appellants respectfully submit that the Examiner erred in rejecting all pending claims. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in

documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

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VII.    CLAIMS APPENDIX

1.      (Previously presented)  A computer system comprising:

a central processing unit (CPU);

a memory unit coupled to the CPU;

an application stored in the memory unit and executable by the CPU; and

a facade server stored in the memory unit and executable by the CPU, wherein the facade server hosts the application without utilizing network protocols.

2.      (Original) The system of claim 1 further comprising a program stored in the memory unit and executable by the CPU, wherein the program creates an interface between the facade server and a web-browser for exchanging data associated with the application.

3.      (Original) The system of claim 2 wherein the program interacts with the facade server through a local protocol registered on the system.

4.      (Original) The system of claim 1 wherein the application comprises one of a plurality of applications hosted by the facade server without utilizing network protocols.

5.      (Previously presented)  The system of claim 1 wherein the application, the facade server, and a web-server interface by which the application exchanges data with the facade server all utilize a common address space.

6.      (Original) The system of claim 1 further comprising a web-server, wherein the web-server handles connections to the application when operating in a network mode, and the facade server handles connections to the application when operating in a local-only mode.

7.      (Previously presented)  A method comprising:

generating application data from a web-based application hosted on an
executable facade server via a web-server interface;

providing said application data from the executable facade server to a
web-browser using a local protocol; and

using said web-browser to display said application data on a display.

8.      (Canceled).

9.      (Original) The method of claim 7 wherein the local protocol uses a data
transfer mechanism selected from the group consisting of software component
models, named data pipes, memory mapped I/O streams, data files, and a
combination thereof.

10.     (Original) The method of claim 7 wherein the web-based application
generates the application data by utilizing a web-based technology selected from
the group consisting of Perl, Java®, JavaScript®, active server pages (ASP),
hypertext preprocessing (PHP), hypertext markup language (HTML), and a
combination thereof.

11.     (Canceled).

12.     (Previously presented) A computer readable media storing instructions
executable by a computer system, and when executed the instructions implement
a method comprising:

generating application data from a web-based application hosted on an
executable facade server via a web-server interface; and

providing said application data from the executable facade server to a
web-browser using a local protocol.

13.     (Canceled).

14.     (Original) The computer readable media of claim 12 wherein the local protocol uses a data transfer mechanism selected from the group consisting of software component models, named data pipes, memory mapped I/O streams, data files, and a combination thereof.

15.     (Original) The computer readable media of claim 12 wherein the web-based application generates the applications using a web-based technology selected from the group consisting of Perl, Java, JavaScript, active server pages (ASP), hypertext preprocessing (PHP), and hypertext markup language (HTML), and a combination thereof.

16.     (Canceled).

17.     (Previously presented)  A computer system comprising:

means for executing programs;

means for storing data coupled to the means for executing programs;

means for generating application data from a web-based application, wherein the web-based application is stored in the means for storing data and executable by the means for executing programs; and

means for hosting the web-based application, wherein the means for hosting the web-based application is stored in the means for storing data and executable by the means for executing programs; and

wherein the means for hosting the web-based application does not utilize network protocols.

18.     (Previously presented) The system of claim 17 wherein a program executed by the means for executing programs interfaces the means for generating application data with means for viewing the application data.

19.    (Original) The system of claim 17 wherein the means for hosting the web-based application is capable of mimicking a plurality of web-servers.

20.    (Original) The system of claim 17 wherein the web-based application comprises a plurality of web-based applications.

21.    (Previously presented) The system of claim 17 further comprising means for hosting data on a network, wherein the means for hosting data on a network is stored in the means for storing data and is executable by the means for executing programs; and

wherein the means for hosting data on the network handles connections to the web-based application when the system is operating in a network mode, and the means for hosting the web-based application without utilizing network protocols handles connections to the web-based application when operating in a local-only mode.

22.    (Previously presented) The method of claim 7, wherein the web-based application, the facade server and the web-server interface all share a common address space.

23.    (Previously presented) The method of claim 7 further comprising:
        providing an executable web server for hosting data on a network;
        if operating in a network mode, using the executable web server to provide
            connections to the web based application; and
        if operating in a local-only mode, using the executable facade server to
            provide connections to the web based application.

24.    (Previously presented) The computer readable media of claim 12, wherein the web-based application, the executable facade server and the web server interface all share a common address space.

## VIII.   EVIDENCE APPENDIX

None.

IX.    RELATED PROCEEDINGS APPENDIX

None.